

City of Detroit

CITY COUNCIL

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TO: COUNCIL MEMBERS

FROM: Irvin Corley, Jr., Fiscal Analysis Director *ICJ*
Derrick Headd, Fiscal Staff Analyst *DH*

DATE: June 18, 2008

RE: **Update on** Purchasing Contract Nos. 2759483 and 2759495 (**Recommend Approval**) **Regarding Neighborhood And Community Committee**

In the Neighborhood And Community Committee meeting of Thursday June 12, 2008, after we issued our report on Purchasing Contracts 2759483 and 2759495, Councilmember Watson expressed concerns that the new State legislation regarding the Detroit Zoo, Public Act 49 of 2008, could jeopardize the control of the Detroit Zoo and its assets, placing them in the control of an outside authority. Fiscal was asked to review the legislation and report back on its implications in regard to the control of the Zoo and its assets by outside interests.

Public Act 49 of 2008

On March 27, 2008, Governor Grandholm signed into law Public act 49 of 2008, based on Senate Bill 1135. The legislation, which took immediate effect, allows all counties in the state to form zoological authorities authorized to seek voter approval of a tax to support local zoos. The legislation, Public Act 49 of 2008, was sought by supporters of the Detroit Zoo, given the fact that the Zoological Society and not the City of Detroit, based on the rationale that the Zoological Society needed to pursue alternative means of funding for the Detroit Zoo. Despite the fact that the City of Detroit would remain in control of the assets and the property of the Zoo and its capital costs, the Zoological Society would be responsible for the operations and the operational costs of the Zoo.

The "Zoological Authorities Act" does the following:

1. Allows a county to form a zoological authority.
2. Requires a county board of commissioners to adopt articles of incorporation in order to establish an authority, and require the articles to include the method of dissolving the authority.
3. Allows the authority, with approval of the county electors, to levy a tax of up to 0.1 mill for up to 20 years on all taxable property in the county, in order to provide revenue to an accredited zoological institution.
4. Require the authority to contract for zoological services with an accredited zoological institution before a vote for a tax levy occurred
5. Requires the contract for zoological services to include privileges and services for residents of the county.
6. **Prohibits the authority from obtaining an interest in real property or participating in the governance of an accredited zoological institution.**
7. Requires the authority to reimburse the county and a municipally for election costs they incurred, if a tax were approved.

According to the Senate Fiscal Agency, "it is estimated that the difference between the zoo's revenue and expenditures will be about \$7.9 million by March 31, 2009, and the deficit will be approximately \$2.1 million at that time."

In her statement on the legislation Governor Grandholm stated, "The Detroit Zoo is a strong contributor to the economic vitality of southeast Michigan, and now county officials have a new tool to seek public support to keep the zoo moving forward.... Under the new Zoological Authorities Act, a county board of commissioners can form a zoological authority to provide financial support to an accredited zoological institution by levying a tax of not more than 0.1 mill. In exchange, residents of a county providing the financial support can then receive discounted admission fees, discounted membership fees, discounts for schoolchildren, access to education programs, and other benefits. The new act is available to any county in the state interested in establishing a zoological authority to financially support a local zoo."

The legislation was created solely to raise funds for the zoo in order to ensure its continued viability and **does not create any new level of control of its operations or its assets.**

In regard to the new potential revenue, section 3.7 of the March 1, 2006, Memorandum of Agreement between the City and the Zoo states, "...funds received from federal or county sources, and all other revenues, funds grants, donations or pledges, in cash or in kind (such as donations of property or securities), from any private or public source...(a)ll funds so received by the society must be used to further and promote the general welfare and interests of the institute." Therefore, the uses of these potential new funds are earmarked for the good and welfare of the Zoo.

Additionally, as we mentioned in our last report, regarding the contracts corresponding to the terms of the contract between the City and the Zoo, the March 1, 2006, Memorandum of Agreement, City of Detroit – Detroit Zoological Society, expressly states the following in **section 5.4 (c)**: "The City will include the Society in the annual capital budget process, including funding authorized under voter-approved bonding authority... includes all extant funding, for improvements to infrastructure, as well as other voter-approved projects (such as new exhibits like the Belle Isle Nature Zoo). ... All such capital improvement funds used for capital improvements contracts will continue to be approved by City Council in a manner prescribed by the charter, ordinance and state law, to ensure that the public interest and public trust are duly safeguarded."

As we stated in our last report, according to RAD's report on contracts and purchase orders for May 13, 2008, contract # 2759483, for \$1,485,000, is to provide for planned improvements to the Nature Zoo that include upgrades to the main structure, improvements to nature trails, grounds and the educational exhibits. While contract # 2759495 for \$4,500,000, is for is for the continuing planned improvements to include: structural, infrastructural, grounds, utility, safety and regulatory compliance that are needed at the Main Zoological Park. These contracts for capital improvements are consistent with the terms spelled out in section 5.4 (c) in the Memorandum of Agreement between the City of Detroit and the Zoological Society.

Additionally, as RAD has also indicated in its May 13, 2008 report, \$5,985,000 is available in the General Obligation Bonds Funds account, 4510-351385-0-642100-12152-0-0 appropriation for Zoo Capital, Facility Improvements, thereby providing the necessary funds for the two contracts. Given the fact that the two contracts fall within the scope of the agreement between the City and the Zoological Society and that sufficient bond funds are available, **we recommend approval of the two contracts.**

What we did discover, however, according to a Detroit News story of May 16, 2008, “the Macomb County Board of Commissioners... began setting up a zoological authority to promote a millage increase that will benefit the Detroit Zoo. Commissioners approved articles of incorporation for the authority ... If (Macomb County) voters approve the millage increase in the August election, Macomb County residents will pay an additional \$7 to \$10 in taxes each year.”

In a later June 17, 2008 article, also in the Detroit News, it reports, “In August, voters in Wayne, Oakland and Macomb counties will decide whether to approve a 0.1-mill regional tax for the Detroit Zoo. The proposed new tax would cost about \$10 a year for an owner of a \$200,000 home and generate about \$12 million annually to fund the zoo.”

Finally, the \$5,985,000 proposed spending is from a bond authorization for the Zoo, approved by Detroit voters, and can only be used for the capital needs of the Detroit Zoo.

Please contact us if Your Honorable Body requires any additional information.

Attachments

Council Divisions
Auditor General's Office
Ayanna Benson, Detroit Building Authority
Tyrone Clifton, Detroit Building Authority
Pamela Scales, Budget Department
Renee Short, Budget Department
Kerwin Wimberly, Mayor's Office

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Tuesday, June 17, 2008

Zoo billboards aren't for tax vote

Officials say placards are designed to boost image, not to urge approval of August millage request.

Darren A. Nichols / The Detroit News

ROYAL OAK -- Billboards along several Metro Detroit freeways are carrying a message that promotes the importance of the Detroit Zoo, but they're not meant to promote an upcoming millage request, officials said Monday.

The signs are part of the "Our Zoo is Worth Keeping!" promotional campaign.

In August, voters in Wayne, Oakland and Macomb counties will decide whether to approve a 0.1-mill regional tax for the Detroit Zoo. The proposed new tax would cost about \$10 a year for an owner of a \$200,000 home and generate about \$12 million annually to fund the zoo, which has struggled since the city of Detroit stopped subsidizing it.

The Detroit Zoological Society has kept the 125-acre zoo at 10 Mile and Woodward afloat with budget cuts, a boost in attendance and \$4 million from the state. The society itself doesn't have the authority to levy taxes.

The society launched the promotional campaign, which also includes a summer zookeepers club for children that offers free perks at the facility.

W.B.Donor & Co. created the ads, which include a TV commercial that has children singing "I'm a zookeeper" to the tune of the 1968 hit "Girl Watcher."

Zoo director Ron Kagan said the new ads aren't intended to plug the tax but rather bolster the zoo's image.

"We decided to take an approach that fosters core values of the zoo," Kagan said.

"Obviously the zoo has an important interest in how (the millage) goes, but the campaigns reinforce each other and that's something we try to do."

Kagan said the new ads are delivering some results. Attendance is up about 30,000 to 40,000 people from last year at this time.

You can reach Darren A. Nichols at (734) 462-2190.

Find this article at:

<http://www.detnews.com/apps/pbcs.dll/article?AID=/20080617/POLITICS/806170324>

☐ Check the box to include the list of links referenced in the article.

Act No. 49
Public Acts of 2008
Approved by the Governor
March 27, 2008
Filed with the Secretary of State
March 27, 2008
EFFECTIVE DATE: March 27, 2008

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Senators Jacobs, Cassis, Cherry, Olshove, Thomas, Brater, Switalski, Whitmer, Gleason, Allen, McManus, Hardiman, Kahn, Jansen, Gilbert, Jelinek, Patterson, Schauer, Scott, George, Garcia, Birkholz, Barcia, Hunter, Prusi, Richardville, Van Woerkom, Stamas, Bishop, Brown and Clarke

ENROLLED SENATE BILL No. 1135

AN ACT to provide for the establishment of zoological authorities; to provide powers and duties of a zoological authority; to authorize the levy of a property tax by a zoological authority; and to provide for the powers and duties of certain government officials.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “zoological authorities act”.

Sec. 3. As used in this act:

- (a) “Accredited zoological institution” means an institution located in this state that is accredited by the association of zoos and aquariums.
- (b) “Articles” means the articles of incorporation of an authority.
- (c) “Authority” means a zoological authority established under section 5.
- (d) “Board” means the board of directors of the authority.
- (e) “Electors of the authority” means the qualified and registered electors of the county.
- (f) “Zoological services” means the operation of an accredited zoological institution that is open to the general public.

Sec. 5. (1) Any county may form a zoological authority.

(2) A zoological authority is an authority under section 6 of article IX of the state constitution of 1963. A zoological authority is a public corporate body with the power to sue and be sued in any court of this state.

(3) A zoological authority possesses all the powers necessary for carrying out the purposes of its formation. The enumeration of specific powers in this act shall not be construed as a limitation on the general powers of an authority, consistent with its articles.

(4) An authority shall not obtain an interest in real property or participate in the governance of an accredited zoological institution.

Sec. 7. (1) To initiate the establishment of an authority, articles of incorporation shall be prepared by a majority of the members of the county board of commissioners of the county establishing the authority. The articles of incorporation shall include all of the following:

(a) The name of the authority.

(b) The size of the board of the authority, which shall be composed of an odd number of members and shall not exceed 15 members; the qualifications and terms of office of board members; the manner of appointing the members of the board of the authority; and the filling of vacancies in the office of board member.

(c) The purpose of the authority.

(d) The method of dissolution of the authority.

(e) Any other matters considered advisable.

(2) The articles shall be adopted and may be amended by an affirmative vote of a majority of the members of the county board of commissioners of the county establishing the authority.

(3) Before the articles or amendments to the articles are adopted, the articles or amendments to the articles shall be published not less than once in a newspaper generally circulated within the county. The adoption of articles or amendments to the articles by the county shall be evidenced by an endorsement on the articles or amendments by the clerk of the county.

(4) Upon adoption of the articles or amendments to the articles by the county, a printed copy of the articles or the amended articles shall be filed with the secretary of state by the clerk of the county.

(5) The authority's articles of incorporation, or amendments to the articles, take effect upon filing with the secretary of state.

Sec. 9. (1) A vacancy occurs on the board on the happening of any of the events set forth in section 3 of 1846 RS 15, MCL 201.3. Members of the board may be removed by the county board of commissioners for good cause after a public hearing. Vacancies shall be filled in the manner as provided for in the authority's articles of incorporation.

(2) A majority of the members of the board constitute a quorum for the purpose of conducting business and exercising the powers of an authority. Official action may be taken by an authority upon the vote of a majority of the board members present, unless the authority adopts bylaws requiring a larger number.

(3) A member of the board shall not receive compensation for services as a member of the board but is entitled to reimbursement for reasonable expenses, including expenses for travel previously authorized by the board, incurred in the discharge of his or her duties.

(4) The business that an authority may perform shall be conducted at a public meeting of the authority held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(5) A writing prepared, owned, or used by an authority in the performance of an official function shall be made available in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) At its first meeting, a board shall elect a chairperson, a secretary, a treasurer, and any other officers it considers necessary.

(7) A board may adopt bylaws to govern its procedures.

Sec. 11. An authority may do 1 or more of the following:

(a) Contract for zoological services with an accredited zoological institution.

(b) Levy a tax as provided in section 13.

(c) Enter into contracts incidental or necessary for the accomplishment of this act.

(d) Contract for or retain professional services.

Sec. 11a. An authority and an accredited zoological institution shall enter into a contract for zoological services before the vote for a tax levy under section 13 occurs.

Sec. 12. If a majority of electors in the county voting on the question of a tax as provided in section 13 approve the tax, the contract for zoological services between the authority and an accredited zoological institution shall include preferences or benefits for the residents of the county that may include, but are not limited to, any of the following:

(a) Discounted admission fees.

(b) Discounted membership fees.

(c) Discounts for schoolchildren.

(d) Access to educational programs.

Sec. 13. (1) An authority may levy a tax of not more than 0.1 mill for a period of not more than 20 years on all of the taxable property within the county for the purpose of providing revenue to an accredited zoological institution that is an accredited zoological institution as of the date of the electors' approval of the levy. The authority may levy the tax only if a majority of the electors in the county voting on the tax at a statewide general or primary election approve the tax. The proposal for a tax shall be submitted to a vote of the electors of the authority by resolution of the board.

(2) A ballot proposal for a tax shall comply with the requirements of section 24f of the general property tax act, 1893 PA 206, MCL 211.24f. A proposal for a tax shall not be placed on the ballot unless the proposal is adopted by a resolution of the board and certified by the board not later than 60 days before the election to the county clerk of the county for inclusion on the ballot. The proposal shall be certified for inclusion on the ballot at the next eligible election, as specified by the board's resolution.

(3) If a majority of the electors in the county voting on the question of a tax approve the proposal as provided under subsection (1), the tax levy is authorized. Not more than 2 elections may be held in a calendar year on a proposal for a tax authorized under this act.

Sec. 15. (1) The county election commission of the county shall provide ballots for an election for a tax under section 13.

(2) An election for a tax shall be conducted by the city and township clerks and election officials of the municipalities located within the county.

Sec. 17. (1) If an election for a tax under section 13 is to be held in conjunction with a general election or a state primary election, the notices of close of registration and election shall be published as provided for by the state election laws. Otherwise, the county clerk of the county shall publish the notices of close of registration and election. The notice of close of registration shall include the ballot language of the proposal.

(2) The results of an election for a tax shall be canvassed by the board of county canvassers of the county. The board of county canvassers of the county shall make the final canvass of an election for a tax based on the returns of the election inspectors of the municipalities in that county. The board of county canvassers of the county shall certify the results of the election to the board of the authority.

Sec. 19. A tax authorized to be levied by an authority under this act shall be levied and collected at the same time and in the same manner as provided by the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

Sec. 20. Within 10 business days of the receipt of the funds from the local property tax collecting unit for the tax levied under this act, the authority is required to transfer the funds to an accredited zoological institution.

Sec. 21. (1) If a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, the county clerk of the county shall charge the authority and the authority shall reimburse the county for the actual costs the county incurs in the election for the tax under section 13.

(2) If a municipality conducts the election and a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, the clerk of that municipality shall charge the authority and the authority shall reimburse the municipality for the actual costs the municipality incurs in conducting the election if the election is not held in conjunction with a regularly scheduled election in that municipality.

(3) If a majority of the electors in the county voting on the question of a tax as provided in section 13 approve the tax, in addition to costs reimbursed under subsection (1) or (2), a county or municipality shall charge the authority and the authority shall reimburse the county or municipality for actual costs that the county or municipality incurs and that are exclusively attributable to an election for a tax authorized under this act.

(4) The actual costs that a county or municipality incurs shall be based on the number of hours of work done in conducting the election, the rates of compensation of the workers, and the cost of materials supplied in the election.

Sec. 23. (1) A board shall obtain an annual audit of the authority, and report on the audit and auditing procedures, in the manner provided by sections 6 to 13 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.433. The audit shall also be in accordance with generally accepted government auditing standards as promulgated by the United States general accounting office and shall satisfy federal regulations relating to federal grant compliance audit requirements.

(2) An authority shall prepare budgets and appropriations acts in the manner provided by sections 14 to 19 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.434 to 141.439.

(3) The state treasurer, the attorney general, a prosecuting attorney, bank, certified public accountant, certified public accounting firm, or other person shall have the same powers, duties, and immunities with respect to the authority as provided for local units in sections 6 to 20 of the uniform budgeting and accounting act, 1968 PA 2, MCL 141.426 to 141.440.

(4) If an authority ends a fiscal year in a deficit condition, the authority shall file a financial plan to correct the deficit condition in the same manner as provided in section 21(2) of the Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL 141.921.

(5) The board may authorize funds of the authority to be invested or deposited in any investment or depository authorized under section 1 of 1943 PA 20, MCL 129.91.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved _____

Governor